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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,645	06/27/2003	Steven Allen Holt	6269RDC	2686

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CINCINNATI, OH 45224

EXAMINER
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MARKOFF, ALEXANDER

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/607,645

Applicant(s)

HOLT ET AL.

Examiner

Alexander Markoff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/26/05 has been entered.

### ***Claim Objections***

2. Claims 4 and 11 are objected to because of the following informalities: It appears that "absorbent capacity" is missing in the line 3 of this claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 7, 8, 14, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Rivera et al (US Patent No 5,090,832).

Rivera et al teach a pad and a method as claimed.

See entire document, especially column 2, lines 57-58, column 6, line 53 – column 7, line 8, Fig. 6, Fig. 12, Fig. 20 and column 9, lines 10-30, column 9, line 45 – column 10, line 15.

The pad comprises a scrubbing layer 78, an absorbent layer 68, 74 (referenced together as 24) and impermeable attachment layer 26.

The claimed sequence of the layers is shown on Figure 20 and described in column 9, lines 10-30.

Rivera et al further state with respect to the embodiment shown on Fig. 20 that layer 68, 74 is the one as described in prior parts of the document. See column 9, lines 10-30.

The one of the preferred absorbent layers 68, 74 referenced in the cited part of the document is described in details in column 6, line 53 – column 7, line 8 and illustrated on Fig. 6. This layer comprises the super absorbent material 82.

The disclosed method comprises application of a cleaning liquid to the surface and cleaning the surface with the pad. The method does not require rinsing.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 3-6 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rivera et al (US Patent No 5,090,832).

With respect to these claims Rivera et al does not teach the specifically claimed range of the weight part of the super absorbent material. Rivera is silent regarding the amount of the material presented in the absorbent layer.

The proportions of the components of the material having different absorbent properties is a result effective variable. It would have been obvious to an ordinary artisan at the time the invention was made to find an optimum proportions for the super

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absorbent material in the pad and method of Rivera et al by routine experimentation depending from the application requirement in order to enhance the action of the pad.

The property of the pad having the same structure would obviously be the same.

9. Claims 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rivera et al in view of the state of the art admitted by the applicants in the specification.

With respect to these claims Rivera et al teach the claimed method except for recitation of the claimed cleaning solutions. Rivera et al teach the use of non-specified cleaning liquid.

The applicants admit in the specification (pages 18 and 19) that all cleaning liquids used in the method of the invention are known hard surface cleaning compositions.

It would have been obvious to an ordinary artisan at the time the invention was made to employ any conventional hard surface cleaning composition for its primary purpose in the method of Rivera et al with reasonable expectation of success because the method of Rivera is disclosed for cleaning hard surfaces.

10. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rivera et al in view of Davison (US Patent No 3,629,047).

Rivera et al teach the claimed pad and method except for specific recitation of a scrim.

However, Rivera et al teach a layer of a nonwoven material. On the other hand, Davison teaches that nonwoven materials for disposable cleaning cloth conventionally comprise a scrim. See at least Fig. 2 and the related description.

It would have been obvious to an ordinary artisan at the time the invention was made to use the nonwoven material of Davinson in the pad and a method of Rivera et al with reasonable expectation of success because Davinson teaches this nonwoven material for cleaning applications.

### ***Response to Arguments***

11. Applicant's arguments filed 7/26/05 have been fully considered but they are not persuasive. The applicants amended the claims and argue that the amendment overcome the rejection over Rivera et al made under 35 USC 102 (b). This is not persuasive. See the detailed explanation in the rejection above.

The applicants further argue that Rivera et al teach permeable attachment layer.

This is not persuasive because Rivera et al specifically teach the layer as not permeable. See cited parts of the document.

The applicants further argue that the mode of the operation of the pad of Rivera et al is different from what is claimed. It appears that applicants rely on the term blotter layer used by Rivera et al.

This is not persuasive because the use of the different terms does not negate the fact that the device disclosed by the Rivera et al and the method disclosed by Rivera et al are the same as recited by the claims rejected under 35 USC 102 (b).

The device comprises a scrubbing layer 78, an absorbent layer 68, 74 (referenced together as 24) and impermeable attachment layer 26. The claimed sequence of the layers is shown on Figure 20 and described in column 9, lines 10-30.

The method comprises application of cleaning solution to the surface to be cleaned and contacting the surface with the pad.

The fact that the method of Rivera et al comprises a specific application step and that the structure of the pad disclosed by Rivera et al comprises more components than the claimed pad do not change the fact that the claimed pad and method are disclosed by Rivera et al. The claims neither specified application step, nor exclude additional layers of the cleaning pad.

To rebut the rejections made under 35 USC 103 the applicants rely on the arguments made with respect to the rejection made under 35 USC 102 (b). The arguments are not persuasive for the reasons provided above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Markoff whose telephone number is 571-272-1304. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alexander Markoff  
Primary Examiner  
Art Unit 1746

AM

ALEXANDER MARKOFF  
PRIMARY EXAMINER